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Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2001 and 2002

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution 55/258, which, in section XI, paragraph 5, had requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the Secretary-General's report on the administration of justice in the Secretariat (A/56/800 of 13 February 2002) included information concerning the outcome of the work of the Board for 2000-2001. The present report provides information on the work of all Joint Appeals Boards for the year 2002; and, for comparative purposes, further contrasts the data for 2002 with those for 2001.

* A/58/150.

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Introduction

1. In section XI, paragraph 5, of its resolution 55/258 of 14 June 2001, the General Assembly requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Boards (JABs). In response to that request, the Secretary-General's report on the administration of justice in the Secretariat (A/56/800 of 13 February 2002) included information on the work of all JABs for the period 2000-2001. The present report provides information and numerical data on the work of the JABs for the year 2002.

Outcome of the work of the Joint Appeals Board

2. Table 1 below and its accompanying figures set out information, in numerical and graphic form, respectively, on the work of the JABs in New York, Geneva, Vienna and Nairobi for the years 2001 and 2002 by providing the number of appeals and suspension-of-action cases filed and disposed of[1] during that year.

3. As can be seen from table 1 and its figures, there was a substantial increase in the number of appeals filed with all JABs during 2002, with the largest share going to the New York JAB, which had received 23 more appeals than the year before, an increase of 29 per cent. As for the corresponding figures for the other JABs, the Geneva JAB received 10 more appeals in 2002 than in the year before, for an increase of 53 per cent; similarly, the Vienna JAB received 10 more appeals in 2002, for an increase of 200 per cent; and the Nairobi JAB received 1 more appeal, for an increase of 8 per cent.

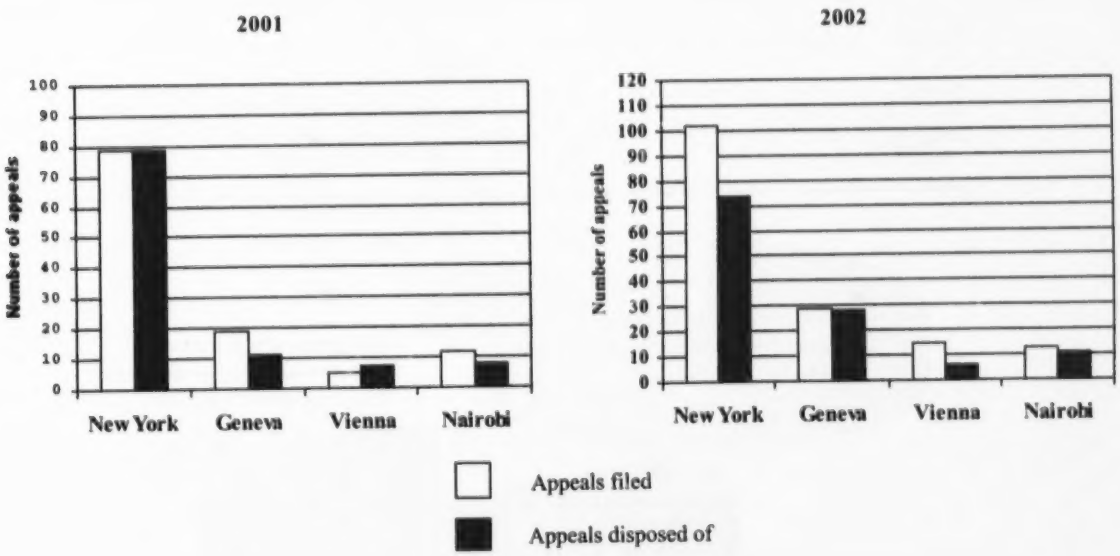
4. Another difference between the two periods concerns the number of cases disposed of by the JABs: while the number of cases disposed of by the New York JAB was slightly smaller than the number of cases disposed of during 2001, for a decrease of 6 per cent, the Geneva JAB disposed of 28 cases during 2002, thus achieving an increase of 155 per cent. The Vienna JAB disposed of one less case in 2002 than during 2001, thus showing a slight decrease of 14 per cent, while the figures for the Nairobi JAB indicate an increase in output of 38 per cent.

5. As for the number of pending appeals during the reporting period, it was effectively nil in the Vienna and Nairobi JABs, and rather modest in the Geneva JAB. However, the number of pending cases continued to be a problem for the New York JAB, which had in its docket some 150 pending appeals by the end of 2002. However, not all of those cases were ready for consideration by the JAB; indeed, the number of cases where the exchange of written pleadings between the parties had been completed was less than 50 by the end of 2002.

6. Disciplinary cases are also handled by the JAB secretariats and are always considered on a priority basis. In 2001, the New York Joint Disciplinary Committee (JDC) had considered eight disciplinary cases, whereas the Vienna and Nairobi JDCs considered one case each. In 2002, the New York JDC considered eight disciplinary cases and the Geneva JDC considered three disciplinary cases.

Table 1
Number of appeals and suspension-of-action cases filed and disposed of by all JABs in 2001 and 2002

Standing JABs	*2001*	*2002*	*Percentage change*
New York: appeals filed	79	102	+29
New York: appeals disposed of	79	74	-6
Geneva: appeals filed	19	29	+53
Geneva: appeals disposed of	11	28	+155
Vienna: appeals filed	5	15	+200
Vienna: appeals disposed of	7	6	-14
Nairobi: appeals filed	12	13	+8
Nairobi: appeals disposed of	8	11	+38



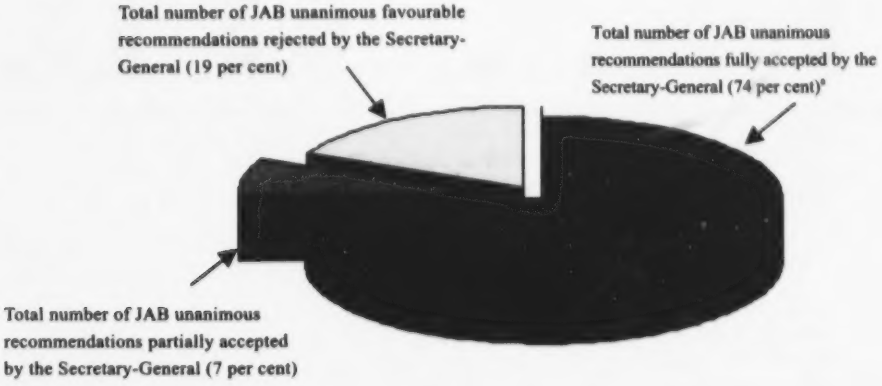
7. Table 2 and its accompanying figure provide information, in numerical and graphic forms, respectively, on the decisions taken by the Secretary-General on JAB reports for the years 2001 and 2002.

Table 2
Breakdown of decisions taken by the Secretary-General on unanimous JAB recommendations on appeals and requests for suspension of action in 2001 and 2002

2001

JAB reports from	*Total number of decisions on JAB reports*	*Total number of JAB unanimous recommendations*	*Total number of JAB unanimous recommendations fully accepted by the Secretary-General*	*Total number of JAB unanimous recommendations partially accepted by the Secretary-General*	*Total number of JAB unanimous favourable recommendations rejected by the Secretary-General*	*Total number of JAB unanimous unfavourable recommendations*
New York	61	59	41 (70%)	3 (5%)	15 (25%)	23 (39%)
Geneva	16	16	13 (81%)	3 (19%)	0	11 (69%)
Vienna	5	5	5 (100%)	0	0	4 (80%)
Nairobi	5	5	4 (80%)	0	1 (20%)	3 (60%)
Total	**87**	**85**	**63 (74%)**	**6 (7%)**	**16 (19%)**	**41 (48%)**

81% (full and partial acceptances)

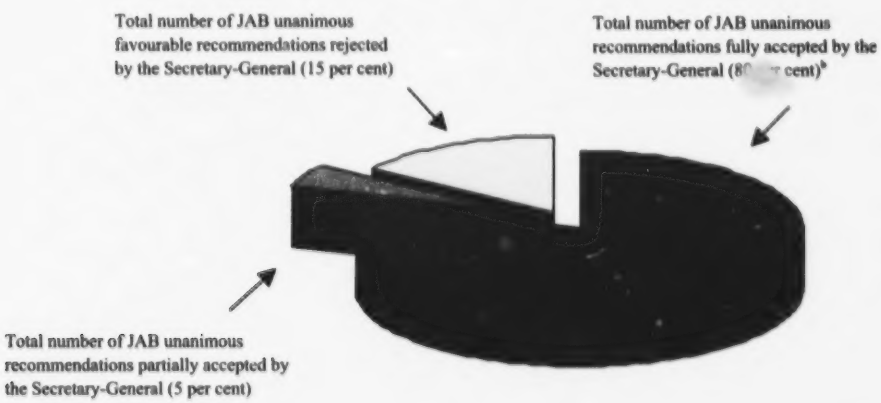

Total number of JAB unanimous favourable recommendations rejected by the Secretary-General (19 per cent)
Total number of JAB unanimous recommendations fully accepted by the Secretary-General (74 per cent)[a]
Total number of JAB unanimous recommendations partially accepted by the Secretary-General (7 per cent)

[a] Including the total number of JAB unanimous unfavourable recommendations (48 per cent).

2002

JAB reports from	*Total number of decisions on JAB reports*	*Total number of JAB unanimous recommendations*	*Total number of JAB unanimous recommendations fully accepted by the Secretary-General*	*Total number of JAB unanimous recommendations partially accepted by the Secretary-General*	*Total number of JAB unanimous favourable recommendations rejected by the Secretary-General*	*Total number of JAB unanimous unfavourable recommendations*
New York	60	56	42 (75%)	3 (5%)	11 (20%)	30 (54%)
Geneva	14	14	13 (93%)	1 (7%)	0	10 (72%)
Vienna	3	3	3 (100%)	0	0	3 (100%)
Nairobi	8	7	6 (86%)	0	1 (14%)	5 (72%)
Total	**85**	**80**	**64 (80%)**	**4 (5%)**	**12 (15%)**	**48 (60%)**

85% (full and partial acceptances)


Total number of JAB unanimous favourable recommendations rejected by the Secretary-General (15 per cent)
Total number of JAB unanimous recommendations fully accepted by the Secretary-General (80 per cent)[b]
Total number of JAB unanimous recommendations partially accepted by the Secretary-General (5 per cent)

[b] Including the total number of JAB unanimous unfavourable recommendations (60 per cent).

8. As can be seen from table 2 above and its accompanying figures for the years 2001 and 2002, the percentage of full and partial acceptances by the Secretary-General of the unanimous JAB recommendations was quite high (81 per cent for 2001 and 85 per cent for 2002). As for the percentage of rejections by the Secretary-General of unanimous JAB recommendations that were favourable to the appellants, it was relatively low in both periods and there was a noticeable decrease in 2002 (15 per cent as compared with 19 per cent in 2001).

9. This is in line with the stated policy of the Secretary-General, which is to normally accept unanimous recommendations, unless there is a compelling reason of

law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for the rejection, which in most cases is attributable to the incorrect application of law or policy by the JAB or fact-finding that is inadequate and not supported by the available evidence. With the increased training for the JAB/JDC members in the applicable law and policies of the Organization and the availability of the Web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onward), the Secretary-General trusts that unanimous recommendations will be more reliably supported by the evidence, as well as reflective of the applicable law, and that consequently the percentage of acceptable recommendations would rise. The Secretary-General would still have the discretionary authority, however, to reject unanimous JAB recommendations, should he find that it was in the interest of the Organization to do so.

Notes

[1] The term "disposed of" refers to appeals with respect to which the JAB has completed its involvement. The figures may include appeals that, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.